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SUBJECT: 2006-2007 INCSR REPORT, FINANCIAL CRIMES AND
MONEY LAUNDERING

REF(S): A)STATE 157084

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11. (SBU) This is Post's 2006-2007 International
Narcotics Control Strategy Report II, Financial Crimes
and Money Laundering, per ref A.

Begin Text:

Nepal is not a regional financial center. There are no indications that Nepal is used as an international money laundering center. The Government of Nepal (GON) has not yet criminalized money laundering, and legislation on money laundering, mutual legal assistance and witness protection, developed as part of the GON's Master Plan for Drug Abuse Control, remained stalled in 2006. The Parliament was reinstated in April and is entitled to pass new laws (ref B). Draft anti-money laundering legislation has been prepared but has not yet been tabled in the reinstated Parliament. The Foreign Exchange Act of 1962 and the Bank and Financial Institutions Act of 2006, together, authorize prosecutions for illegal transfer of money. There were no prosecutions or arrests for illegally transferring money so far in 12006.

Banks are required to record the identity of customers engaging in significant transactions. In particular, the Nepal's central bank, Nepal Rastra Bank (NRB), must approve all transactions that involve payments in foreign currency. Any Nepali citizen who wishes to open a foreign currency account must obtain a license to do so from the NRB, and Nepali citizens wishing to conduct foreign exchange transactions of any kind must obtain approval from the NRB by clearly outlining the purpose for the transaction. The NRB normally approves small transactions (in USD thousands) for travel, education and medical treatment. Travelers can take out USD 2000 a year from any commercial bank by showing travel documents such as a passport, visa, and air ticket, without NRB approval. Individuals with an NRB approval letter can conduct a foreign exchange transaction at any bank. In addition to NRB approval, students must obtain a recommendation letter from the Ministry of Education; the transactions approved can only be for the amount listed on the total expenses line of the student's visa paperwork. The NRB approves foreign exchanges for medical

treatment based on the recommendation of the Nepal Medical Council, and there is no limit on the amount. Business travelers are entitled to foreign exchange approval from the NRB to cover their food, lodging, and transportation expenses. For business transactions, however, individuals must open a letter of credit from a commercial bank documenting all the transaction details. The commercial bank then forwards the letter of credit to the NRB for approval. There is no maximum or minimum limit on the amount for transactions in legal products and services.

Nepal has enacted bank secrecy laws that prevent the disclosure of client and ownership information to individuals and law enforcement authorities; however, the present law does not prevent the disclosure of client and ownership information to the NRB, courts, auditors or the Commission for Investigation of Abuse of Authority (CIAA). Banks have provided records regarding bank accounts of individuals and institutions to assist in GON investigations into corruption by senior officials. There are currently no free trade zones in Nepal. However, different industry sector associations have been urging the GON to set up an export processing zone near the Inland Container Depot (ICD) in Birgunj, which borders India.

The NRB has the authority to freeze accounts and seize assets related to criminal investigations. However, the GON's ability to identify and trace assets is hindered by the lack of a computerized information sharing system. For example, many bank branch offices do not have computers. The Nepal Police also have the authority to seize any goods or property related to criminal investigations. The Department of Revenue

Investigation (DRI), under the Ministry of Finance, functions as Nepal's financial intelligence unit (FIU). DRI is responsible for the control and investigation of any kind of revenue loss to the GON. It has the authority to make raids, seize assets, and arrest and prosecute individuals or institutions for causing any kind of revenue loss to the government, such as cash smuggling, underpaying customs duty, or tax evasion. The DRI can also investigate and prosecute foreign exchange violations. Nepal Police, Immigration, and Customs forward all cash smuggling cases to the DRI for prosecution. The DRI makes the case and takes it to the district court. However, the DRI is not adequately staffed. Increased cooperation among the NRB, Nepal Police, and the DRI would enhance Nepal's money laundering and terrorist financing investigative and enforcement capabilities.

The estimated 1.2 million Nepalese who work overseas send back at least \$1 billion (about 13 percent of GDP) a year and are the largest users of informal means of transferring money to Nepal. Expatriates frequently send money back using the hundi system of informal money transfers (called hawala in other countries) or physically carry money back with them undeclared to Nepal. A large number of Nepalese who work in India are able to bring Indian rupees back over the border because the Indian and Nepalese governments do not aggressively look for cash on people or in vehicles as they cross. Indian currency is widely accepted in Nepal. Nepalese workers in the Gulf and Southeast Asia also send a significant amount of money back through informal channels even though financial regulations are more stringent. In Nepal, the hundi system is linked to issues of capital flight, tax avoidance, and corruption. The NRB has instituted an International Monetary Exchanges licensing policy within the past year, which requires financial organizations wanting to distribute foreign remittances to obtain an operating license. Additionally, many of Nepal's commercial banks have opened offices in countries with large numbers of

Nepali expatriate workers to facilitate remittances through the banking system. According to NRB officials, the combination of these factors has resulted in a decrease in the use of the hundi system in Nepal.

The Bank and Financial Institutions Act 2006 and Nepal Rastra Bank Act 2002, working in tandem, criminalize terrorist financing. In addition, using the regulatory power vested in it under various acts and regulations, the NRB directs all the banks and financial institutions of Nepal to comply with anti-terrorist financing requests made by USG. The Bank and Financial Institutions Act 2006 regulates the actions of financial institutions in Nepal and provides the NRB with the authority to seize any assets or freeze accounts deemed to have been used in terrorist activities. No assets belonging to individuals or entities on the UNSCR 1267 Sanctions Committee's consolidated list have been identified in Nepal. Additionally, Nepal's State Offense Act of 1989 authorizes security forces to arrest and prosecute any Nepalese or foreign citizen involved in any criminal activities against the State or associated with foreign terrorist activity. The GON made no arrests for terrorist financing in 2006.

The GON is a party to the 1988 UN Drug Convention, the 1961 UN Single Convention on Narcotic Drugs, as amended by the 1972 Protocol, and the 1990 South Asian Association for Regional Cooperation (SAARC) Convention on Narcotics, Drugs, and Psychotropic Substances. It has signed, but not yet ratified, the UN Convention against Transnational Organized Crime and the UN Convention Against Corruption. Nepal is not a signatory to the UN International Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

End Text.

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